

**REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION**

~ APPEALS ~

Friday, May 20, 2022
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Jordan Russell, Commissioner Megan Tilly, and Commissioner Scott Biggs.

Staff present to support the Commission: Alexander Watkins, WCC; Lindsey Christopher, WCC; and Monica Pack, WCC.

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Chairman Russell stated the administrative meeting was being held in compliance with the Open Meetings Act.

CALL TO ORDER Presiding Appellate Officer, Commissioner Tilly

Call to order 9:00 a.m. by Commissioner Tilly, Presiding Appellate Officer.

ROLL CALL Presiding Appellate Officer, Commissioner Tilly

After the roll call was taken, Commissioner Tilly announced a Quorum.

Members present: Commissioner Tilly and Commissioner Biggs

Members absent: Chairman Russell

Commissioner Tilly called for a recess until 9:25 a.m.

The Commission reconvened at 9:35 a.m. After the roll call was taken, Commissioner Tilly announced the presence of a Quorum.

Members present: Commissioner Tilly, Chairman Russell, and Commissioner Biggs.

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of April 29, 2022, were considered for approval.

Motion: Commissioner Tilly made a motion to approve the Regular Appeals Meeting of April 29, 2022, minutes.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

1. Jodi Walters v. Tulsa Police Department and the City of Tulsa (OWN RISK #10435), File #CM3-2015-03388R

Cross appeal filed from the order issued by Administrative Law Judge Inhofe. William E. Sparks, Micah Felton, and Jack G. Zurawik are the attorneys of record for the Claimant. Travis R. Colt is the attorney of record for the Respondent.

Motion: Commissioner Tilly moved to dismiss this case due to both parties reaching a settlement agreement.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: CROSS APPEAL DISMISSED

2. Julian Slater v. MITF, File #CM3F-2019-00356F

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Bob Burke appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Chairman Russell moved to take preliminary action to affirm the Administrative Law Judge's Order and instruct Appellate Counsel or other staff member to draft a proposed order to be considered at a future meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

3. **Mark Vorhes v. American Airlines Inc. and New Hampshire Insurance Co., File #CM3-2018-03831R**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Robert A. Flynn appeared for the Claimant and Travis R. Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to vacate and remand the case as agreed by both parties.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER VACATED AND REMANDED

4. **Raymond Miller v. La Quinta Inn, Global Core Stillwater LLC, and Employers Preferred Insurance Co. (FKA AMCOMP PREFERRED), File #CM3-2020-00616F**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green appeared for the Claimant and Kelley Bodell appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take this case under advisement.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

5. **Kevin Cantwell v. Flex N Gate Oklahoma LLC and Hartford Accident & Indemnity Co., File #CM3-2016-04789A**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. T.R. Banks and Bob Burke are the attorneys of record for the Claimant. Steven E. Hanna is the attorney of record for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

6. **Kevin Cantwell v. Flex N Gate Oklahoma LLC (OWN RISK #19362), File #CM3-2017-04866J**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. T.R. Banks and Bob Burke are the attorneys of record for the Claimant. Steven E. Hanna is the attorney of record for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

7. **David White v. 918 Construction LLC and CompSource Mutual Ins. Co. (FKA COMPSOURCE OKLAHOMA), File #CM3-2020-03673F**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. James G. Devinney appeared for the Claimant and Travis R. Colt appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

8. **Crystal Archibald v. Papa Johns Pizza, Ozark Pizza Co. LLC, and Intrepid Insurance Company, File #CM3-2019-04136X**

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. Kathryn Black appeared for the Claimant and Clark P. Bushyhead appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

9. Wanda Gibby v. MITF, File #CM3F-2019-07638F

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. J. Kord Hammert appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take this case under advisement.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

C. Commission Consideration of Adoption of Final Orders in the Following Cases:

1. Ray McGlocklin v. Jernigan's Sporting Goods Inc., File #CM3-2020-01803F

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. John R. Colbert appeared for the Claimant and Timothy E. Lurtz appeared for the Respondent.

This case came on for Oral Argument on January 28, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved adopt the order as proposed and modified.

Second: Chairman Russell

Those Voting Aye: Chairman Russell and Commissioner Tilly

Dissent: Commissioner Biggs

THE MOTION CARRIED: ORDER ADOPTED

2. Henry Wuneburger v. MITF, File #CM3F-2015-03231Y

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Michael C. Bell appeared for the Claimant and Travis Colt appeared for the Respondent.

This case came on for Oral Argument on March 25, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and

authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

3. **Earl Appleberry v. Western Flyer Express LLC and United States Fire Insurance Co., File #CM3-2019-07029Q**

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Timothy Kent appeared for the Claimant and Travis A. Fulkerson appeared for the Respondent.

This case came on for Oral Argument on November 19, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

4. **John Rosson v. Roundtree Automotive Group LLC and State National Insurance Co., File #CM3-2019-03668K**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Michael R. Green appeared for the Claimant. Blake Farris appeared for the Respondent.

This case came on for Oral Argument on December 17, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

5. **J. Asuncion (Soto) Abonza v. Exterran Holdings Inc. and American Zurich Insurance Co., File #CM3-2015-08100F**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Bret A. Unterschuetz appeared for the Claimant and Michael Fagan appeared for the Respondent.

This case came on for Oral Argument on April 29, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

6. **Rita Morales v. Walmart Stores Inc. and Walmart Associates Inc. (OWN RISK), File #CM3-2015-07958X**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on April 29, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

7. **Tracy Minor v. Hobby Lobby Stores Inc. and Indemnity Insurance Co. of North America, File #CM3-2020-05570X**

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Joseph C. Biscone II and Emily Biscone appeared for the Claimant and James C. Ferguson appeared for the Respondent.

This case came on for Oral Argument on April 29, 2022. After reviewing the record, hearing oral arguments, and deliberating, Chairman Russell moved to take preliminary action to remand this cause for the taking of additional evidence, in the form of an independent medical examiner, and instructed the Commission's Appellate Council to draft an order, with the Commission's reasoning, to be adopted at a future meeting.

Motion: Commissioner Tilly moved continue this order to the next appeals meeting.

Second: Commissioner Biggs

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

ADJOURNMENT

Motion: Commissioner Tilly moved to adjourn the meeting at approximately 3:05 p.m.

Second: Commissioner Biggs.

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.